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8 Attorney for Defendants

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 10 **IN THE UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN MARIANA ISLANDS**

12 KAMALA BADE MESIK,) CASE NO. CV 07-0019
 13 vs. Plaintiff,)
 14 DKK INC. and KIM HONG KYUN,) MOTION TO STRIKE
 15 Defendants.) DECLARATIONS
 16) Date: Thursday, January 10, 2008
 17) Time: 9:00 a.m.
 18) Judge: Hon. Alex R. Munson

19 COMES NOW the Defendants, DKK, Inc. and Kim Hong Kyun appearing specially
 20 through their attorney Mark B. Hanson challenging the personal jurisdiction of this Court in
 21 this matter,¹ with this Motion pursuant to Local Rule 7.1.c.4 to strike the untimely
 22 declarations submitted on behalf of Plaintiff in opposition to Defendants' Motion to Dismiss.

23 **MOTION TO STRIKE**

24 On November 27, 2007, Defendants filed a Motion to Dismiss in the above-captioned
 25 case, challenging the service in this matter and the Court's personal jurisdiction over the
 26 Defendants. *See* Doc. No. 14. Plaintiff's attorney was timely served the same day via the
 27 Court's Case Management/Electronic Case Filing System. *See* Certificate of Service, Doc. No.
 28 14.

29
 30 ¹ Defendants expressly reserve issues of personal jurisdiction over them given the
 31 failure of service of process in this matter. This motion by Defendants through the
 32 undersigned's special appearance is not intended to waive any issues of personal jurisdiction.
 33 *See, e.g., Jackson v. Hayakawa*, 682 F.2d 1344, 1347 (9th Cir. 1982) (defendants specially
 34 appearing to challenge personal jurisdiction by preliminary motion do not waive personal
 35 jurisdiction as would a general appearance).

1 Pursuant to Local Rule 7.1.c.2:

2 Any opposition to the motion shall be filed and served by
3 the close of business (3:30 p.m.) on the Thursday of the second
4 full week after the week in which the motion was filed. The
5 opposition shall consist of a legal memorandum or brief and,
6 when appropriate, affidavits or declarations under penalty of
perjury. A party not opposing a motion shall file a statement of
no opposition within the time provided above. Failure to file
such a statement may be deemed an admission that the motion
is meritorious.

7
8 Accordingly, Plaintiff's opposition (or her statement of no opposition) to Defendants'
9 Motion to Dismiss was due no later than Thursday, December 13, 2007.

10 Plaintiff failed to file either an opposition or a statement of no opposition. Instead, on
11 Friday, December 21, 2007, over a week after her opposition was due, and without leave of this
12 Court, Plaintiff filed two declarations in opposition to Defendants' Motion.

13 The Declarations, including any argument in opposition to Defendants' Motion
14 contained therein, filed without leave of Court are expressly prohibited by Local Rule 7.1.c.4.
15 The declarations are untimely pursuant to Local Rule 7.1.c.2. The declarations should,
16 therefore, be stricken and not considered by this Court. *See* L.R. 7.1.c.4.

17 Further, Plaintiff's failure to file an opposition to Defendants' Motion should be
18 deemed an admission by Plaintiff that the Motion is meritorious. *See* L.R. 7.1.c.2.

19 DATED this 27th day of December, 2007.

20 /s/ Mark B. Hanson

21 MARK B. HANSON

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27 Attorney for *Defendants*

1 CERTIFICATE OF SERVICE

2 I hereby certify that the following was served with a copy of the foregoing via the
3 Court's Case Management/Electronic Case Filing System:

4
5 Danilo T. Aguilar, Esq.
6 Attorney at Law
7 First Floor, San Jose Court Bldg.
8 P.O. Box 505301
9 Cor. Ghiyeghi St. & Wischira Way
Saipan, Mariana Islands 96950
E-mail: aguilar@pticom.com

10 November 27, 2007
11 DATED: _____

/s/ Mark B. Hanson

MARK B. HANSON

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